Justice Clears Helms In 1971 Secret Entry Of Studio in Fairfax

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The Justice Department has decided not to prosecute former CIA Director Richard Helms and others for their role in a 1971 break-in at a Fairfax City photographic studio, Atty. Gen. Edward H. Levi announced today.

Levi said the department decision was based on the recommendations of Deputy Atty. Gen. Harold R. Tyler Jr. and Asst. Atty. Gen. J. Stanley Pottinger, head of the civil rights division.

Pottinger investigated the case for possible criminal liability under federal civil rights statutes.

BUT LEVI said that the evidence developed in the case, including the interrogation of witnesses at length, "did not meet the standard to establish criminal violation" of the statutes.

Also cleared was Richard Ober, a CIA employe who is on loan to the National Security Council as its director for intelligence coordination. Although the Justice Department release did not mention Ober by name, The Star had reported that Ober had been under investigation along with Helms for their roles in approving the break-in.

The federal statute under which prosecution was considered, the Justice Department said, was that involving the deprivation of citizens' rights, privileges or immunities protected by the Constitution.

If Helms had been prosecuted and convicted, he could have faced a fine of not more than $1,000, a year in prison or both.

The Justice Department said that William B. Cummings, the U.S. attorney for Virginia's Eastern District, concurred in the recommendation not to prosecute.

THE INVESTIGATION involved the surreptitious entry by CIA agents and Fairfax City police into a photo studio on Feb. 19, 1971.

The studio was owned by a former middle-level Cuban propaganda official and his fiance, a former CIA employe who is the daughter of a high-ranking CIA official.

The Cuban, Orlando Nunez de Villavicencio del Toro later married the CIA employe, Deborah Fitzgerald. They now have a film company which sometimes produces Spanish-language films for other agencies.

The CIA conducted the break-in at the former Roland Studios, in an apartment housing a commercial photo studio at 10419 Main St., Fairfax City, to determine whether Fitzgerald had breached CIA security while working as a file clerk.

THE STAR reported in January that Fitzgerald had reported her involvement with Nunez to CIA security officers, who apparently were concerned that she was seeking files about her boyfriend.

Sources have said that Helms personally approved the break-in after consultation with a senior CIA official who worked on the White House staff.

Sources said the CIA did not turn up any evidence of a security violation in its investigation.

The Justice Department decision announced today came as the five-year statute of limitations in the case ran out. While today's Justice Department decision mentioned Helms "and others" who were under investigation, no other specific names were given.